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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RUDY G. BONEFAS, MICHAEL MILLER, DALE SHELTON,
and L. JAY WANTZ

Appeal 2008-0756
Application 09/709,487
Technology Center 2400

Decided: November 20, 2008

Before JOSEPH L. DIXON, LANCE LEONARD BARRY, and ST. JOHN
COURTENAY III, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-30, 56-66, and 86-90. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

A. INVENTION

The invention at issue on appeal deploys markup content to web browsers on wireless devices. More specifically, a translator receives requests in a variety of formats from the wireless devices and translates the requests into a standardized format. A content provider interface receives each standardized request, retrieves content data, and forwards the content data to a transformer. The transformer transforms the content data into a format for the particular wireless device. (Spec. 7.)

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows.

1. A system for deploying content to devices, comprising:

- a translator operative to receive data sent from devices and to translate said data into a standardized format;

- a content provider interface operative to receive said data in said standardized format and to provide content data in said standardized format;

- a transformer operative to receive said content data and to transform said content data into a format for a particular device; and

- a session manager to examine data content communicated between at least one of said devices and said content provider and to identify and return state-based information based on interactions between said devices and said content provider, said state based information comprising at least one of a type of device originating a request, a hypertext history and a content provider state maintained for a back-end information source.

C. PRIOR ART

The Examiner relies on the following references:

Nielsen	US 5,899,975	May 4, 1999
Namma	US 6,182,116 B1	Jan. 30, 2001 (filed Sep. 14, 1998)
McCartney	US 2002/0010716 A1	Jan. 24, 2002 (filed Feb. 24, 2001)
Jamtgaard	US 6,430,624 B1	Aug. 6, 2002 (filed Feb. 14, 2000)
Allen	US 6,877,095 B1	Apr. 5, 2005 (filed Mar. 9, 2000).

D. REJECTIONS

Claims 1-6, 8-17, 23-27, 30, 56-66, and 86 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,430,624 ("Jamtgaard") and U.S. Patent No. 6,877,095 ("Allen").

Claims 7 and 29 stand rejected under § 103(a) as obvious over Jamtgaard; Allen; and U.S. Patent No. 6,182,116 ("Namma").

Claims 18-22 stand rejected under § 103(a) as obvious over Jamtgaard; Allen; and U.S. Patent No. 5,899,975 ("Nielsen").

Claim 28 stands rejected under § 103(a) as obvious over Jamtgaard; Allen; and U.S. Patent Application Pub. No. 2002/0010716 ("McCartney").

III. ISSUE

"Rather than reiterate the positions of the parties *in toto*, we focus on an issue therebetween." *Ex parte Kuruoglu*, No. 2007-0666, 2007 WL 2745820, at *2 (BPAI 2007). The Examiner admits that "[t]he Jamtgaard reference fails to teach a session manager that examines content to identify and return state-based information." (Answer 20.) He makes the following findings.

[T]he Allen reference is relied upon to teach a session manager to examine data content communicated between said one or more devices and said content provider interface (Allen: col. 13, lines 38- col. 14, line 35; session manager checks token) and to identify and return state-based information based on interactions between said devices and said content provider (Allen: col. 13, lines 63-col. 14, line 2), said state based information comprising a content provider state maintained for a back-end information source (Allen: col. 6, lines 10-19; col. 13, lines 63- col. 14, line 2; lines 31-35; the token provides session state whether the user is verified to access the requests resource=backend system).

The Allen reference provides proper motivation by teaching a session manager identifies users and tracks the user session states to improves security that scales across a plurality of servers (Allen: col. 5, lines 24-34).

(*Id.*) The Appellants argue that "[m]odifying Jamtgaard to send a token to a user on a client of a server would be **nonsensical** since the token would need to be used by the translation server that executes a virtual browser." (Br. 11.) Therefore, the issue is whether the Examiner has refuted the Appellants' arguments.

IV. PRINCIPLES OF LAW

[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant.

After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument.

In re Oetiker, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

V. FINDINGS OF FACT

The Appellants' arguments that "Jamtgaard's invention is directed toward a translation server that includes a virtual browser for executing web content that an information appliance cannot execute (See at col. 5, lines 27-53)" (Br. 11) and that "it is Jamtgaard's translation server that is performing browser functions" (*id.*) are uncontested. The part of the reference cited by the Appellants corroborates these arguments by explaining that "an information appliance may not support persistent session that may be required by the web site, but the virtual browser may enable a persistent session so that the web site thinks that it is interacting with an information appliance that has the persistent session capability." (Col. 5, ll. 45-49.)

The Appellants' argument that "Allen's invention is directed toward sending tokens to a user on a client of a server" (Br. 11) is also uncontested. Part of the reference cited by the Examiner corroborates this argument by explaining that "a Web server creates and delivers a one-way encrypted token to a user on a client of that server." (Col. 6, ll. 10-12.)

VI. ANALYSIS

Because the Appellants have made the aforementioned arguments, patentability is to be determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of the arguments. The Examiner does not contest that "the token [sent by Allen] would need to be used by the [Jamtgaard's] translation server that executes a virtual browser." (Br. 11.) The Examiner does not allege, let alone show, that the addition of Namma, Nielsen, or McCartney cures the aforementioned deficiency of Jamtgaard and Allen.

VII. CONCLUSION

For the aforementioned reasons, we agree with the Appellants that "[t]he Examiner has failed to refute that sending a token to a device that could not use the information included in the token is *nonsensical*." (*Id.*)

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Application 09/709,487

VIII. ORDER

We reverse the obviousness rejections of claims 1-30, 56-66, and 86-90.

REVERSED

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